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8 **IN THE UNITED STATES DISTRICT COURT FOR THE**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 **GREGG BRAUN, Chapter 11 Trustee**)
11 **for COAST GRAIN COMPANY, a**)
12 **California corporation,**)

13 **Plaintiff,**)

14 **v.**)

15 **AGRI-SYSTEMS, a Montana**)
16 **corporation,**)

17 **Defendant**)

18 **AND RELATED COUNTERCLAIMS**)
19 **_____**)

CV-F-02-6482 AWI SMS

ORDER VACATING
HEARING DATE OF AUGUST
29, 2005, CONTINUING DATE
FOR SUBMISSION OF
DOCUMENT AND TAKING
MATTER UNDER
SUBMISSION

20 Plaintiff Greg Braun, Plain Agent for debtor Coast Grain Company ("Plaintiff") has
21 moved for summary judgment to extinguish a mechanic's lien in the amount of
22 \$1,030,000.00 recorded by defendant Agri-Systems ("Defendant") on or about August 21,
23 2001. In the alternative, Plaintiff seeks summary judgment to exclude from the mechanic's
24 lien certain invoice amounts Plaintiff contends are improper. Defendant has filed opposition
25 to the motion for summary judgment and has requested the matter be continued for thirty
26 days to allow for the completion and submission of a transcript of deposition of David
27 Vandiver that was taken on August 8, 2005. The matter was scheduled for oral argument to
28 be held on August 29, 2005.

1 The court has reviewed Plaintiff's motion, Defendant's opposition, and Plaintiff's
2 reply, and has determined that the matter is suitable for determination without oral argument.
3 Local Rule 78-230(h). The court has also reviewed Defendant's request for continuance and
4 Plaintiff's opposition to the continuance and has determined that the issue of whether the
5 transcript of deposition of David Vandiver that Defendant intends to submit is relevant to the
6 case at hand is best determined when the transcript is available for review by the court. The
7 court will therefore continue the date for submission of the matter thirty (30) days to allow
8 Defendant to file the transcript of deposition.

9
10 THEREFORE, it is hereby ORDERED that the hearing date of August 29, 2005, is
11 hereby VACATED and no party shall appear at that time. The matter will be taken under
12 submission as of the earlier of September 28, 2005, or the date of filing of the transcript of
13 deposition of David Vandiver, and the court will thereafter render its decision.

14
15 IT IS SO ORDERED.

16 **Dated: August 23, 2005**
17 h2ehf

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE